

Introduced by Senator Speier

February 22, 2005

An act to amend Section 6254.14 of the Government Code, and to amend Section 6126 of, and to add Section 5024.3 to the Penal Code, relating to health care services.

LEGISLATIVE COUNSEL'S DIGEST

SB 616, as introduced, Speier. Inmate health care.

Existing law requires hospitals that do not contract with the Department of Corrections for emergency health care services to provide those services at a Medicare rate. Existing law prohibits the department from reimbursing a hospital that provides those services at a rate that exceeds the hospital's reasonable and allowable costs.

This bill would require the department to make a reasonable effort to lower health care expenditures, as specified. The bill would require the department to renegotiate each health care contract, as it expires, to obtain services that are reimbursable at rates that are not more than 115% of the Medicare rate, and would prohibit the department from renewing certain other hospital contracts. The bill would require the department, to the extent possible, to provide health care services to inmates at the prison site, if it would be more cost-effective than transporting inmates to outside hospitals.

Existing law specifies the duties of the Office of Inspector General.

This bill would include in those duties the requirement to establish a process, in consultation with the California Medical Board, to facilitate the receipt, review, and investigation of complaints from employees of the Department of Corrections who provide health care services.

Existing law protects from disclosure records of the Department of Corrections that relate to health care service contract negotiations.

This bill would require the department to disclose to the State Auditor certain information related to health care service contracts that are not competitively bid. The bill would authorize the State Auditor to disclose that information to the Joint Legislative Audit Committee, upon request.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) State expenditures for the delivery of health care services
4 to adult inmates in state prisons doubled from the 2000-01 fiscal
5 year to the 2002-03 fiscal year.
6 (b) Expenditures are continuing to increase at high annual
7 rates, with expenditures projected to surpass \$1 billion in the
8 2005-06 fiscal year.
9 (c) While the Department of Corrections acknowledges that it
10 must reduce its costs and improve the delivery of health care, its
11 plans for reorganizing the delivery of health care services, by its
12 own admission, will not be fully realized until 2010.
13 (d) It is critical that the department take further immediate
14 steps beyond its initial reorganization plans of 2005 to improve
15 the delivery of health care and to reduce costs by doing all of the
16 following:
17 (1) Eliminating excessively high cost hospital services
18 contracts.
19 (2) Reducing the contracting out of services that can be
20 delivered by department medical staff.
21 (3) Reducing inmate transportation and guarding costs through
22 improved contracting procedures.
23 (4) Using economies of scale available through federal drug
24 pricing agreements under the Public Health Services Act (42
25 U.S.C. Sec. 256b).
26 (e) To achieve health care savings in the Department of
27 Corrections in the near and immediate future, the Legislature
28 hereby enacts the Inmate Health Care Efficiency Act of 2005.
29 SEC. 2. Section 6254.14 of the Government Code is amended
30 to read:

6254.14. (a) (1) Except as provided in Sections 6254 and 6254.7 and this section, nothing in this chapter shall be construed to require disclosure of records of the Department of Corrections that relate to health care services contract negotiations, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations, including, but not limited to, records related to those negotiations such as meeting minutes, research, work product, theories, or strategy of the department, or its staff, or members of the California Medical Assistance Commission, or its staff, who act in consultation with, or on behalf of, the department.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health services entered into by the Department of Corrections or the California Medical Assistance Commission on or after July 1, 1993, shall be open to inspection one year after they are fully executed. In the event that a contract for health services that is entered into prior to July 1, 1993, is amended on or after July 1, 1993, the amendment, except for any portion containing rates of payment, shall be open to inspection one year after it is fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Bureau of State Audits. The Joint Legislative Audit Committee and the Bureau of State Audits shall maintain the confidentiality of the contracts and amendments until the contract or amendment is fully open to inspection by the public.

(5) *The Department of Corrections shall disclose to the State Auditor the rate of payment for any health care service contract that is not competitively bid, within seven days of the signing of the contract. The department shall identify the contractor and the general terms of the contract in reporting to the Auditor. The Auditor, upon request by a member of the Joint Legislative Audit Committee, shall provide to the member the information received from the department, including the specific rate of payment.*

(6) It is the intent of the Legislature that confidentiality of health care provider contracts, and of the contracting process as provided in this subdivision, is intended to protect the competitive nature of the negotiation process, and shall not affect public access to other information relating to the delivery of health care services.

(b) The inspection authority and confidentiality requirements established in subdivisions (q), (v), and (w) of Section 6254 for the Legislative Audit Committee shall also apply to the Bureau of State Audits.

SEC. 3. Section 5024.3 is added to the Penal Code, to read:

5024.3. (a) The Department of Corrections shall make a reasonable effort to lower health care expenditures by contracting with “covered entities,” as defined in Section 256b of Title 42 of the United States Code, to provide prescription drugs and other medical services to inmates.

(b) The department shall renegotiate each contract for health care services, as it expires, to obtain services that are reimbursable at rates that do not exceed 115 percent of the Medicare rate.

(c) (1) For purposes of this subdivision, “remote travel” means road travel of 150 round-trip miles or more between a prison and a hospital providing services to an inmate from that prison.

(2) The department shall compile, within 30 days of the effective date of this section, a list of existing hospital service contracts that involve remote travel, including identifying those prisons involved.

(3) The department may not renew any contract involving remote travel unless it can demonstrate that sending inmates to that hospital from that prison is more cost-effective than using a hospital that does not require remote travel.

(d) To the extent possible, the department shall contract for health care services that cannot be provided by existing department employees with providers who will perform those services at the prison site, if the demand for those services would make the contract cost-effective by saving costs of custody transportation.

SEC. 4. Section 6126 of the Penal Code is amended to read:

1 6126. (a) The Inspector General shall be responsible for
2 reviewing departmental policy and procedures for conducting
3 audits of investigatory practices and other audits, as well as
4 conducting investigations of the Department of Corrections, the
5 Department of the Youth Authority, the Board of Prison Terms,
6 the Youthful Offender Parole Board, the Board of Corrections,
7 the Narcotic Addict Evaluation Authority, the Prison Industry
8 Authority, and the Youth and Adult Correctional Agency, as
9 requested by either the Secretary of the Youth and Adult
10 Correctional Agency or a Member of the Legislature, pursuant to
11 the approval of the Inspector General under policies to be
12 developed by the Inspector General. The Inspector General may,
13 under policies developed by the Inspector General, initiate an
14 investigation or an audit on his or her own accord.

15 (b) Upon completion of an investigation or audit, the Inspector
16 General shall provide a response to the requester.

17 (c) The Inspector General shall, during the course of an
18 investigatory audit, identify areas of full and partial compliance,
19 or noncompliance, with departmental investigatory policies and
20 procedures, specify deficiencies in the completion and
21 documentation of investigatory processes, and recommend
22 corrective actions, including, but not limited to, additional
23 training with respect to investigative policies, additional policies,
24 or changes in policy, as well as any other findings or
25 recommendations that the Inspector General deems appropriate.

26 (d) The Inspector General shall, in consultation with the
27 Department of Finance, develop a methodology for producing a
28 workload budget to be used for annually adjusting the budget of
29 the office of the Inspector General, beginning with the budget for
30 the 2005–06 fiscal year.

31 *(e) The Inspector General, using existing resources and in*
32 *consultation with the California Medical Board, shall establish a*
33 *process to facilitate the receipt, review, and possible*
34 *investigation of complaints from employees of the Department of*
35 *Corrections who provide health care services. The Inspector*
36 *General and the board may enter into a memorandum of*
37 *understanding regarding the implementation of the Inmate*
38 *Health Care Efficiency Act of 2005.*

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